

**IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,

II Additional District Munsif, Nagercoil

Wednesday, on the 12^h day of November, 2025

I.A. Nos. 5 of 2025 & 6 of 2025

in

O.S. No. 179 of 2016

CNR No.TNKK04-000347-2016

D. Edwin

through his Power Agent, E. Jasmine

... Petitioners / Plaintiff

-vs-

R. Balakrishnan

... Respondent / Defendant

These Petitions came up before this Court on 08.11.2025, in the presence of Thiru. D. Vijay Antony, Advocate for the Petitioner / Plaintiff and Thiru. K. Sahayadhas, Advocate for the Respondent / Defendant and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

COMMON ORDER

I.A.No.5/2025 Prayer

The petitioner has filed the above petition under Section 151 of the Code of Civil Procedure, seeking to reopen the Plaintiff's side evidence which was categorically closed on 06.10.2025 by this court in the above said case and pass

an order or orders which is deem fit and proper circumstances of the case.

I.A.No.6/2025 Prayer

The petitioner has filed the above petition under Order XVIII Rule 17 of the Code of Civil Procedure, seeking to recall petitioner's side witness PW3 Village Administrative Officer, Mylaudy Village which was categorically closed on 06.10.2025 by this court and pass an order or orders which is deem fit and proper circumstances of the case.

2) **Gist of Averments in the Petitioner's Petitions:**

The Petitioner herein is the Plaintiff in the main suit and petitioner was well acquainted with facts and circumstances of the case. The petitioner stated that petitioner was filed a suit for permanent injunction in respect to the suit schedule property against the Respondent and same is pending for disposal and then the matter was posted for further evidence already two witnesses examined on the side of petitioner and petitioner was filed batta for 3rd witness who is the Village Administrative Officer, Mylaudy Village and the batta was also served and the same witness was also appeared before this court on 06.10.2025 and meanwhile petitioner's counsel's junior was also present in the court hall and negligently and without intentionally not represented before this court and this court was closed petitioner side evidence and posted for the Defendant's side evidence and the above said act was neither willful nor wanton and petitioner

have to examine furthermore two witnesses in order to prove petitioner's case and petitioner also have a good merit in petitioner's case and examined the witnesses very crucial for petitioner's case and in the interest of justice and hence petitioner filed this Reopen petition to reopen petitioner's side evidence and to recall the witness of Village Administrative Officer, Mylaudy Village is very crucial for petitioner's case and in the interest of justice and hence petitioner filed this recall petition the above mentioned witness in the above case before this court.

3. The petitioner further stated that there is no prejudice will be happened to the Respondent herein in order to allow this application in favour of petitioner. If this petition may not be allowed, petitioner will be constrained irreparable loss and hardship and the Petition may be allowed. Hence, these petitions are to be allowed.

4) **Gist of Averments in the Respondent's Counters:**

The Respondent filed an adoption memo stating that he has filed counter in I.A.No.5/2025 and prays the same may be treated as a counter in I.A.6/2025.

The Respondent has filed a counters stated that the petition is not maintainable either in law or on facts. The petition lacks bonafide and liable to be dismissed inlimine. It is admitted that the summoned witness, Village Administrative Officer , Mylaudy Village was appeared before this court on 06.10.2025. On that day, the petitioner or his counsel was not appeared before

this court and has deliberately failed to examine the witness summoned by them, the Village Administrative Officer, Mylaudy Village. Thereby this court has closed the petitioner side evidence and posted the suit for defendant side evidence. The petitioner is the master of the suit and as such it is the bounden duty of the petitioner to prosecute the suit vigilantly. Hence the averment that the petitioner counsel's junior was present in the court and has negligently failed to represent the case is unsustainable under law as well as on facts. It is the habitual practice of the petitioner to file frivolous petitions one after another in the suit without any reasonable cause. As such, the petitioner, who wantonly failed to examine the witness summoned by him, has come forward with the present petition to reopen the evidence on his side by stating a fictitious reason that the oral evidence of Village Administrative Officer, Mylaudy Village witness is very crucial for his case. Hence the present petition filed by the petitioner to reopen the evidence on his side is not maintainable under law as well as on facts.

5. The petitioner, with an evil motive to protract the suit and to cause severe hardship to this respondent, has filed the present vexatious petition before this court. The court, after granting sufficient opportunity to the petitioner to examine his witness, has closed the plaintiff side evidence on 06.10.2025 due to his non-appearance. Hence, the present petition to reopen the petitioner/plaintiff side evidence cannot be entertained by this court in any manner. Further, no

prejudice or loss would be caused to the petitioner, if the present petition is not allowed. On the other hand, this respondent will be put into irreparable loss and injury, if the present petition is allowed.

6. The petitioner, with an evil intention to prolong the suit proceeding, has filed the present petition with false averments. The petition is most frivolous and vexatious one. Hence the petitioner is not entitled for any order or relief from this court in the present petition. Hence to accept the counters and dismissed the petitions.

7) The point for consideration is whether the above petitions have to be allowed or not?

8) Point:

Heard both sides. Records perused. These petitions filed by the petitioner / Plaintiff while the original case has been adjourned for Defendant side evidence. The petitioner/ Plaintiff stated that this suit is filed for Permanent injunction in respect to the suit schedule property against the Respondent and same is pending for disposal and then the matter was posted for further evidence already two witnesses examined on the side of petitioner and petitioner was filed batta for 3rd witness who is the Village Administrative Officer, Mylaudy Village and the batta was also served and the same witness was also appeared before this court on 06.10.2025 and meanwhile petitioner's

counsel's junior was also present in the court hall and negligently and without intentionally not represented before this court and this court was closed petitioner side evidence and posted for the Defendant's side evidence and the above said act was neither willful nor wanton and petitioner have to examine furthermore two witnesses in order to prove petitioner's case and petitioner also have a good merit in petitioner's case and examined the witnesses very crucial for petitioner's case and in the interest of justice and hence petitioner filed this Reopen petition to reopen petitioner's side evidence in the above case before this court.

9. The petitioner is the master of the suit and as such it is the bounden duty of the petitioner to prosecute the suit vigilantly. Hence the averment that the petitioner counsel's junior was present in the court and has negligently failed to represent the case is unsustainable under law as well as on facts. It is the habitual practice of the petitioner to file frivolous petitions one after another in the suit without any reasonable cause. As such, the petitioner, who wantonly failed to examine the witness summoned by him, has come forward with the present petition to reopen the evidence on his side by stating a fictitious reason that the oral evidence of Village Administrative Officer, Mylaudy Village witness is very crucial for his case. Hence the present petition filed by the petitioner to reopen the evidence on his side is not maintainable under law as well as on facts.

10. The respondent raised serious contention that the petitioner, with an evil motive to protract the suit and to cause severe hardship to this respondent, has filed the present vexatious petition before this court. This court, after granting sufficient opportunity to the petitioner to examine his witness, has closed the plaintiff side evidence on 06.10.2025 due to his non-appearance. Hence, the present petition to reopen the petitioner/plaintiff side evidence cannot be entertained by this court in any manner. Further, no prejudice or loss would be caused to the petitioner, if the present petition is not allowed. On the other hand, this respondent will be put into irreparable loss and injury, if the present petition is allowed.

11) The reasons stated by the petitioner is only due to negligence and not pleasing. Despite that and the respondent's contention, this court is of the view that only to give the petitioner sufficient opportunity to prove the case and the petitioner took proper recourse without unnecessary delay in filing this petitions. Hence, this court consider to grant permission to the petitioner to reopen, recall and examine PW3. Hence, in the interest of justice, this court is inclined to allow these petitions on conditional cost.

As a result,

I.A. No. 5 of 2025:

This petition is allowed, on the condition that the petitioner shall pay a sum of Rs.300/- (Rupees Three Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 18.11.2025. otherwise, this petition would be dismissed. Call on 18.11.2025.

I.A. No. 6 of 2025:

This petition is allowed, on the condition that the petitioner shall pay a sum of Rs.300/- (Rupees Three Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 18.11.2025. otherwise, this petition would be dismissed. Call on 18.11.2025.

Dictated to the Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 12th day of November 2025.

II Additional District Munsif
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

Fair/ Draft common Order
I.A.No.5, 6 of 2025
in
O.S.No. 179 of 2016
Date: 12.11.2025.
II ADM, Nagercoil.